

U.S. Department of the Interior  
Bureau of Land Management

Eastern States  
Milwaukee Field Office

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# Wisconsin

## Approved Resource Management Plan Amendment Decision Record



*BLM Mission*

*It is the mission of the Bureau of Land  
Management to sustain the health, diversity and  
productivity of the public lands for the use and  
enjoyment of present and future generations.*

## **Wisconsin Approved Resource Management Plan Amendment**

### **Introduction**

This document records the decision reached by the Bureau of Land Management (BLM) on the disposition of twelve tracts of public land in the State of Wisconsin.

### **Decision**

The Wisconsin Resource Management Plan Amendment (RMPA) is approved. The Approved RMPA is the same plan as outlined in the Proposed RMPA issued August 14, 2000. The disposal criteria and procedures outlined in the Proposed RMPA are hereby incorporated by reference into this Approved Resource Management Plan Amendment. Alternative One from the Proposed RMPA is BLM's preferred alternative for the future management of twelve tracts of public land in Wisconsin, pending site-specific analyses.

Site-specific environmental assessments (EAs) will be prepared in accordance with the National Environmental Policy Act (NEPA). As noted in the Proposed RMPA, BLM will conduct all appropriate consultations and coordination activities required by Federal law prior to making final decisions about land disposals. These activities include archaeological surveys, consultations under the Endangered Species Act, and other site-specific studies, as appropriate. Native American tribes and the State Historical Society of Wisconsin will be contacted as well, in accordance with the National Historic Preservation Act, as amended, and other Federal laws.

The Approved RMPA also adopts all of the disposal criteria developed as a result of the planning process. These criteria will be used to determine the most appropriate recipients of the properties and will be applied when BLM reviews site-specific proposals for each parcel.

The Approved RMPA is not the final decision on the disposition of the twelve tracts. Instead, the disposal criteria and the results of site-specific environmental assessments will guide BLM decisionmaking. The public and other parties will continue to be involved in the planning process to ensure that all viewpoints are heard and that all issues are addressed.

## Protests to the Proposed RMPA

The Proposed RMPA was circulated for a period of thirty days during which eight protests were filed with the Director. These protests were dismissed in writing by the BLM Director on February 9, 2001, for the following reasons:

Two protests were filed by individuals that were shown to have not been involved at any point in the planning process and therefore, did not have standing to protest. A search of BLM's records indicated that these individuals had never called BLM, had not signed the participants' (attendance) sheet at the public meeting held in Baileys Harbor in April 1999, sent a letter or e-mail to any official within BLM and were not on the mailing list. Rules governing standing in these matters can be found in 43 CFR 1610.5-2(a).

One protest was partially dismissed because it cited issues that had not been raised during the planning process as required by 43 CFR 1610.5-2(a). The remaining issue raised in the protest was dismissed because it had been deemed appropriately addressed by BLM in the Proposed RMPA.

One protest (called a protective protest) was dismissed because it raised an issue deemed appropriately addressed by BLM in the Proposed RMPA. This issue dealt with whether the *Big Lake* parcel in Vilas County could be sold under the public sale provisions of the Federal Land Policy and Management Act (Sec. 203). In Tables 1 and 2, FLPMA sales were identified as a viable choice, pending site-specific review. In the Implementation Plan (Appendix 5), however, FLPMA sale was not identified as a possible alternative. Because all possible avenues for disposal and management were identified in the body of the plan (e.g., Tables 1 and 2), we believe that a FLPMA sale *may* be authorized for the Big Lake parcel [emphasis added].

The remaining protests were dismissed because the issues raised by the protesters were determined to not meet the definition of a valid protest under BLM's planning regulations.

There are no outstanding protests and all issues have been resolved in accordance with the authority vested in the Director.

## Other Comments Made on the Proposed RMPA

BLM also received two letters during the protest period that were specifically identified as comments and not as protests to the Proposed RMPA. These individuals requested that BLM clarify certain aspects of the proposed plan to ensure that all applicable procedures will be followed during the plan implementation phase. None of these minor clarifications change BLM's findings or alter the proposed action in any substantive way. Rather, by clarifying BLM's intent, it is felt that the public and BLM's management will better understand the implementation process and all required considerations that will enter into the

decisionmaking for individual lands actions.

### Cultural and Archaeological Resources

In its letter to the State Director, the State Historical Society of Wisconsin (SHSW) recommended that BLM clarify and supplement certain legal obligations related to cultural and archaeological resources. Specifically, the SHSW requested that BLM meet its obligation to comply with the Native American Graves Protection and Repatriation Act (NAGPRA), American Indian Religious Freedom Act (AIRFA), and Archaeological Resources and Protection Act (ARPA). In a follow-up telephone conversation with SHSW, it was agreed that BLM had identified these acts in the Proposed RMPA (p. 65) and that would suffice.

### Transportation Planning and Access at Cana Island Lighthouse

The County of Door requested clarification of the term transportation and access plan that had been used by BLM. The County acknowledged that access to Cana Island has been a contentious issue for several years, but disputed BLM's finding that only a bus system and off-site parking would solve the problem. Furthermore, the County disputed BLM's authority to require a mitigation plan to *reduce the need for parking* along Cana Island Road (emphasis provided here). The County offered that any proposed mitigation that sought to reduce impacts beyond the status quo would unfairly treat potential applicants for the property.

Throughout the planning process BLM heard from members of the public that increased use at the lighthouse had created impacts to the local neighborhood by placing additional traffic and parking needs on this designated rustic road, and had caused a trash problem. BLM officials witnessed some of this during site visits in 1999 and 2000. BLM's obligations under its planning and NEPA rules require that issues raised during the planning process be addressed in some fashion, either by dismissing them through scientific analysis or by mitigating them with reasonable measures. Because the level of analysis in the Proposed RMPA was not detailed, BLM could not evaluate with any certainty whether or not these claims of neighborhood impacts had merit. Local environmental issues will be addressed during the site-specific review of application(s) and in the EA. By citing possible neighborhood impacts, BLM does not imply that it agrees that significant impacts have occurred but that the issue would be reviewed and analyzed when BLM had more information to make an informed decision about the merits of issue.

The Proposed RMPA requires that applicants address how they intend to reduce parking along Cana Island Road. We acknowledge that this phrase implies that removal of automobiles is the preferred method to resolve traffic and parking problems on Cana Island Road. The goal of that statement was to place an increased level of awareness for BLM

managers and any prospective land owner of the issue of access to and from the island. BLM will carefully evaluate applications based on how well they address transportation, parking and access issues related to future management of the lighthouse property.

Despite assertions to the contrary, BLM does not require future land owners to implement a bus transportation system to mitigate traffic problems on Cana Island Road. During the planning process BLM heard from one group that a bus *might* be a viable alternative to private automobile access and parking [emphasis added]. BLM, however, did not incorporate this proposal into its decision, as it was not specific enough to analyze in the environmental assessment. If the bus system proposal is included as part of an overall access plan to BLM during the site-specific EA phase, BLM may include it as one of the alternatives to be analyzed in the EA. Any proposals would need to be fairly specific to be a viable under NEPA.

The final issue has to do with BLM's authority to require proponents to reduce impacts to the area when devising future plans for the island's management and operations. We believe that the National Environmental Policy Act and the Council on Environmental Quality (CEQ) regulations require that BLM look for ways to improve environmental and socioeconomic quality when considering proposals to acquire Federal land. It is true that whatever impacts that are occurring in the area have been under the management of the U.S. Coast Guard (through its permit to the Door County Maritime Museum to manage and operate the lighthouse for education and historical preservation purposes). It has been argued that future owners should not be held responsible for the acts of a previous property owner. On the other hand, NEPA and the CEQ regulations require that BLM consider the direct, indirect and cumulative impacts of its action, which in this case would be transferring the island to another entity, which would, in turn, lease the lighthouse to the a third-party.

It is important to recognize that it is BLM's responsibility under NEPA to address all potential and reasonable impacts of the proposed land transfer, whether or not the current impacts are within BLM's or another entity's control. BLM also has an obligation to not only look at impacts of the transfer but for ways to improve conditions. Hence the requirement for prospective land owners to address local impacts. It should be noted that any land transfer is discretionary on the BLM's part and need not be approved if minimal requirements developed as a result of an open and public forum are not met.

### **Disposal Criteria Developed as a Result of the RMPA**

In addition to the criteria identified in Appendix 3 of the Proposed RMPA, the following standards will be applied to each proposal. (See Table 1 below to see how the existing and new disposal criteria affect each tract.)

1. Where parcels have historic structures and existing leases to not-for-profit groups to manage the buildings, BLM will encourage the proposed land owner to continue these management arrangements after the lands are transferred. Conveyance instruments (deeds, patents or leases) for these sites will contain provisions to ensure that historic buildings continue to receive protection under the National Historic Preservation Act of 1966, as amended (NHPA).
2. All applicable Federal, State and local laws, plans and policies will be followed with respect to protection of threatened and endangered wildlife and plant species, historic preservation, Native American religious concerns, hazardous materials, and archaeological resource protection. All consultations and reviews required by law will be conducted when BLM reviews specific applications and prepares the environmental assessments.
3. Applications for the Cana Island lighthouse property shall address the transportation, parking and access issues raised during scoping. Specifically, applicants will need to describe how traffic and parking impacts will be mitigated. This will be required for all Recreation and Public Purposes Act plans of development or withdrawal applications.

BLM will not specify any particular means to reach this objective. Instead, BLM will work with the local community and applicants to ensure that tourist access to Cana Island lighthouse does not contribute any undue or unnecessary impacts to the neighborhood or surrounding area.

4. A major objective of this plan is to enable BLM managers to approve reasonable and rational land tenure adjustments. In some cases this means that certain properties would be transferred to a governmental entity, while in others it may mean the land would be available for public sale. BLM will take into account access, environmental consequences, economic costs and benefits, and other site-specific issues before making decisions regarding individual parcels.
5. BLM cannot accept properties that contain toxic materials or other hazardous wastes. Two lighthouse properties Plum Island and Pilot Island are known to be contaminated.<sup>1/</sup> The Coast Guard has scheduled clean-up efforts for Plum Island early in 2001. Lands that cannot be decontaminated within a reasonable time period,

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<sup>1/</sup> Cana Island has minor groundwater contamination. The Wisconsin DNR has recommended to the Coast Guard to accept a groundwater use restriction on the deed that goes with the land in lieu of remediation. It has not yet been determined whether the groundwater use restriction will be used in place of remediation.

pose problems for other resource values, such as historic buildings that deteriorate without adequate maintenance. Because contaminated lands cannot be determined suitable for return to the public domain and disposition under the general land laws, BLM may notify the Coast Guard to report the properties instead to the General Services Administration for disposal.

Table 1. Disposal Criteria.

County/ Parcel Name	Goals/Objectives for Parcel	Resource Objectives	Procedural Requirements	Potential Disposal Method(s)
<b>Bayfield County</b>				
<i>Perry Lake</i>	Eliminate scattered tracts Improve land ownership patterns	Protect natural and cultural resources	All applicable consultations under Federal law (see Note 1) Appraisal (for public sales only)	Recreation and Public Purposes Act lease or sale (R+PP) Color-of-Title Act sale FLPMA sale/lease
<i>Lake Osborn</i>	Eliminate scattered tracts Improve land ownership patterns Eliminate in-holdings w/out legal access	Protect natural and cultural resources	See Note 1 Appraisal (for public sale only)	FLPMA sale/lease
<b>Door County</b>				
<i>Cana Island</i>	Maintain/restore historic resources Minimize off-site impacts Contribute to local economy Improve access w/out significant off-site impacts Transfer property to qualified long-term manager	Protect endangered or special status plant and animal species Minimize impacts to fisheries Preserve historic resources	Transportation/access plan See Note 1	Withdrawal R+PP BLM-retained site (See Note 2)



<b>County/ Parcel Name</b>	<b>Goals/Objectives for Parcel</b>	<b>Resource Objectives</b>	<b>Procedural Requirements</b>	<b>Potential Disposal Method(s)</b>
<i>Eagle Bluff</i>	Maintain historic resources Continue to be an integral part of Peninsula S.P. Transfer property to qualified long-term manager	Interpret maritime and Wisconsin history Preserve historic resources	See Note 1	R+PP
<i>Pilot Island</i>	Protect public safety Protect historic resources	Protect endangered or special status plant and animal species	See Note 1	R+PP Withdrawal BLM-retained site (See Note 2)
<i>Plum Island</i>	Restore/maintain historic resources Transfer property to qualified long-term manager	Protect natural and cultural resources Preserve historic/cultural resources	See Note 1	Withdrawal R+PP BLM-retained site (See Note 2)
<b>Langlade County</b>				
<i>Lower Bass Lake</i>	Eliminate scattered tracts Improve land ownership patterns Eliminate in-holdings w/out legal access Proposed use in conformance with local zoning requirements	Protect natural and cultural resources	See Note 1 Appraisal	FLPMA sale BLM-retained site (See Note 2)
<b>Oneida County</b>				
<i>Lily Lake</i>	Eliminate scattered tracts Improve land ownership patterns	Protect natural and cultural resources	See Note 1 Appraisal	R+PP BLM-retained (See Note 2) FLPMA sale/lease

County/ Parcel Name	Goals/Objectives for Parcel	Resource Objectives	Procedural Requirements	Potential Disposal Method(s)
<i>Pickarel Lake</i>	Eliminate scattered tracts Improve land ownership patterns	Protect natural resources	See Note 1 Appraisal	R+PP BLM-retained site (Note 2) FLPMA sale/lease
<b>Vilas County</b>				
Big Lake	Eliminate scattered tracts Improve land ownership patterns Eliminate in- holdings	Protect natural resources	See Note 1 Appraisal	R+PP BLM-retained site (Note 2) FLPMA sale/lease
<b>Waupaca County</b>				
<i>Clintonville</i>	Eliminate scattered tracts Improve land ownership patterns	Protect natural resources	See Note 1 Appraisal	R+PP FLPMA sale/lease

Table 1. Disposal Criteria.

Note 1: Including consultations under Sec. 7 of the Endangered Species Act and Sec. 106 of the National Historic Preservation Act, and clearances required by the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended. This list is by no means inclusive; other reviews, consultations and clearances may be required on a site-specific basis.

Note 2: This indicates a possible (legal) disposal option. BLM will not, as a general rule choose the option of retaining parcels unless no other appropriate entity will accept jurisdiction or through a site-specific analysis it is determined that retention would better fulfill the management objectives for the parcel.

The primary goal for this planning effort was to give BLM the authority to transfer jurisdiction of its remaining lands in the state. To accomplish that BLM must: (1) specifically identify lands suitable for disposal based on the disposal criteria in FLPMA; and (2) identify any additional criteria appropriate to address local circumstances. Both FLPMA and the plan's disposal criteria will be used to evaluate proposals submitted by prospective land owners.

Under the previous plan for BLM lands in Wisconsin, all public lands were designated as suitable for disposal, unless certain exceptions exist to require that BLM retain the parcels (see Appendix 3 of the Proposed RMPA). FLPMA (Sec. 203(a), 43 U.S.C. 1713) provides the basic disposal criteria. It states that BLM may convey out of its ownership lands which are too expensive or unwieldy to manage, lands that it no longer requires for a particular use

or land that would meet other important needs, including local community expansion or for recreation. Additional criteria can be developed through the land use planning process.

Through the planning process, BLM determines whether disposal is in the national interest by developing a set of criteria or rules that will be reviewed against each parcel and its proposed use. As part of the plan amendment process, BLM reviewed existing disposal criteria, laws and policies, and public comments to determine which tracts should be transferred from BLM's jurisdiction, and under what circumstances the transfers should occur.

Based on this review, this Approved RMPA adopts, in its entirety, the lands disposal decision from the 1985 Wisconsin RMP and supplements it with additional criteria developed as a result of this planning effort.

### **Other Disposal Criteria and Administrative Procedures**

The State Historical Society of Wisconsin (SHSW) has indicated that the Door County islands Cana, Plum and Pilot may have archaeological resources that could make the properties eligible for listing on the National Register of Historic Places. In order to protect potentially eligible archaeological resources, BLM may require Phase II evaluations of these properties prior to transfer, as required by Section 106 of the National Historic Preservation Act of 1966, as amended. If the islands are transferred to another Federal agency, this requirement may be waived.

The Wisconsin Statutes give counties zoning authority. Of particular concern for the affected parcels are shore land setback standards, since most of the tracts are located along lakes. A general discussion of county zoning is found in Chapter Three of the Proposed RMPA. Towns in the state also have some authority over land use. BLM will consult with the affected towns during the reviews of site-specific proposals.

## **Monitoring Plan**

BLM's planning handbook requires plans to include a monitoring plan to ensure that the goals and objectives of the plan continue to be met, that assumptions used in the plan remain viable, and to keep the plan up-to-date should new conditions arise to warrant a plan amendment or revision. Because the Approved RMPA does not result in any immediate on-the-ground management actions, it is impossible to identify a monitoring plan at this time.

## **Proposed Action and Alternatives**

Three alternatives were considered in the planning process. The alternatives were developed as a result of public input and BLM's legal responsibilities. The proposed action is

Alternative One and considered transfer of the lands to other Federal, state, or local government agencies, individuals or non-profit groups. Alternative Two is the no action alternative required by NEPA. Under Alternative Three, BLM would retain the lands and would manage the properties under BLM's multiple use and sustained yield authorities.

As a result of the site-specific analyses, any one of the alternatives may be chosen. Certain exceptions could apply, as identified in Table 2, Viability of Each Alternative by Parcel .

## **PROPOSED ACTION    TRANSFER FROM BLM ADMINISTRATION**

Under the proposed action, BLM will lease or transfer out of its administration all of the affected parcels (see legal descriptions in Appendix 2). The method by which individual tracts would be transferred would depend on existing land status and natural resource protection goals for a particular parcel. The precise impacts will be analyzed in site-specific environmental assessments that will be prepared for each parcel. Refer to Chapter Four Environmental Consequences of Proposed RMPA for a general review of potential environmental impacts.

### **Lighthouses**

Under this alternative, BLM will consider any method of transfer except FLPMA Sec. 203 sales. BLM could issue either sell or lease the properties to the State or local governments, or not-for-profit groups to manage the lighthouses and surrounding lands. If leases were issued, BLM would remain as the landowner. Leases could be revoked in the event of non-compliance with the terms of the Recreation and Public Purposes (R+PP) Act development plan.

Whether the properties are leased or patented under the R+PP Act or withdrawn for another Federal agency, they could be managed cooperatively with historic preservation groups under licenses issued by the new land manager. Roles and responsibilities for each party will be delineated in the R+PP development plan or the reports required of withdrawal applicants in accordance with 43 CFR 2310 et seq., as applicable.

### **Upland Tracts**

These tracts could be transferred to other non-Federal governmental entities or not-for-profit groups under the R+PP Act, to another Federal agency through withdrawal or sold to private individuals. The tracts would have to have legal access to be transferred to any individual or entity. No preference would be given to adjacent landowners, although the tracts with no legal access could not be sold to other individuals or governmental or non-governmental entities.

BLM may use the exchange provision in FLPMA (Sec. 206) if it would enhance opportunities for resource protection, reduce fragmented land ownership patterns or further improve the goals and objectives of the plans and policies of Federal, State or local governments.

Class 1 color-of-title act claims, which are considered non-discretionary actions, are not affected by the approved plan. These parcels will be adjudicated, and sold if the claimants meet all procedural requirements of the act. BLM has the discretion to reject Class II color of title claims to protect natural or cultural resources. These lands could be made available to other governmental or non-governmental entities under the R+PP Act. Federal agencies may apply for the lands through the withdrawal provisions of FLPMA, Sec. 204.

The merits of public sales to any applicant will be made on a case-by-case basis. The decision to sell the property is fully discretionary on the part of BLM and no equity is implied by considering sales to rejected COT claimants.

## ALTERNATIVE TWO NO ACTION

The Council on Environmental Quality (CEQ) regulations require that Federal agencies consider an alternative in which the status quo is maintained. Under the no action alternative, the properties would remain under BLM jurisdiction and receive custodial management, which is defined as holding the property but not developing active management programs or authorizing significant uses of the land. Examples of uses that could not be considered or approved include special use permits, rights-of-way applications or other temporary use authorizations, except under emergency circumstances.

### **Lighthouses**

The no action alternative assumes that BLM has accepted administrative jurisdiction over the lighthouse properties from the U.S. Coast Guard by publishing public land orders in the Federal Register. (See 43 CFR 2370 et seq. for a description of the revocation/restoration process which determines the suitability of withdrawn public domain for return to management under the public land laws. The suitability determination process is categorically excluded from NEPA. It is assumed that unsuitable properties will be analyzed by the General Services Administration prior to final disposition of the tracts.)

BLM could not undertake an active management program for the lighthouses because it is not authorized to do so under the terms of this alternative. The lighthouses would be closed to the public, the grounds would not be available for camping or day use, and interpretative programs could not be developed and implemented. Emergency repairs to buildings could be approved, but only to protect human health and safety. All current third-party licenses would be canceled.

## **Upland Tracts**

Under this alternative, BLM would provide only minimal attention to the lands. The sites would be posted for no trespassing. BLM could not authorize rights-of-way, camping or day use, or other activities which may affect the resources. BLM would not process class 2 color-of-title claims, which are discretionary actions.

## **ALTERNATIVE THREE    RETAIN/ACTIVE BLM MANAGEMENT**

### **Lighthouses**

BLM would prepare an implementation (activity) plan to describe and analyze the impacts of intensive use of the land. Maintenance and operation of the properties could be performed by BLM or through third-party licenses. Individual project plans and environmental assessments would be prepared for each site to analyze management, budgetary and activity actions that would be required for each of the properties. The public would be invited to participate in the development of the plans.

### **Upland Tracts**

BLM would retain the lands for color-of-title claims that have been rejected for resource protection reasons or those which did not qualify under the act. BLM would develop site-specific activity plans and NEPA analyses for each tract. A management program for each parcel would be developed in accordance with BLM's planning regulations and NEPA. The public will be invited to participate in developing these plans.

Possible uses of the parcels includes camping, open space preservation, access to public water bodies, or other temporary land uses. If appropriate, some of these tracts could support construction of recreational or interpretive facilities. The impacts of these activities would be analyzed in a recreation activity management plan for each site.

## **Procedures Required to Implement Alternative One**

BLM will adhere to the following statutory procedures before transferring any property:

1. Lands withdrawn for use by the U.S. Coast Guard (USCG) will continue to be under that agency's jurisdiction until BLM conducts site-specific analyses for each parcel and publishes public land orders revoking the withdrawals.
2. BLM will not accept any lands back into the public domain until all hazardous materials are removed or cleaned-up. In accordance with 43 CFR 2374(a), holding agencies must

ensure that:

- The lands have been decontaminated of all dangerous materials and have been restored to suitable condition or, if it is uneconomical to decontaminate or restore them, the holding agency posts them and installs protective devices and agrees to maintain the notices and devices.
3. BLM will consult with the U.S. Fish and Wildlife Service under Section 7 of the Endangered Species Act of 1973, as amended, and the Wisconsin Department of Natural Resources concerning the presence of State-listed special status species.
  4. BLM will consult with the State Historical Society of Wisconsin, affected tribes and others to ensure that historic and cultural resources are protected. Where the State Historic Preservation Officer recommends site assessments for the lighthouse parcels, the lands will remain under the jurisdiction of the USCG until those assessments are completed. This will ensure that BLM can identify, evaluate and consider the nature and scope of any cultural and historic resources prior to committing to the transfer of any properties out of Federal ownership.
  5. BLM will consult with all affected towns, counties and state agencies to ensure that BLM's actions will be consistent to the maximum extent practical with these entities' laws, policies, plans and zoning requirements.
  6. BLM will retain wetland and riparian areas unless:
    - Federal, State, public and private entities have demonstrated the ability to maintain, restore and protect wetlands on a continuous basis; or
    - Transfer of public lands, minerals, and subsurface estates is mandated by legislation or Presidential order.
  7. No utility corridors were identified in the approved plan because the tracts are isolated. BLM will consider short, low impact rights-of-way on a case-by-case basis (e.g., utility lines to private lands). No designated right-of-way corridors, or avoidance or exclusion areas have been identified in the approved plan.
  8. No lands will be made available for grazing, mineral location (Wisconsin is exempt from the General Mining Law of 1872) or mineral leasing because the tracts are unsuitable or uneconomic to manage for these uses.
  9. No lands have been designated as areas of critical environmental concern (ACECs).
  10. No lands have been designated open, closed or open under certain restrictions for Off-road vehicular traffic. The rationale is that these lands are too small to be managed

efficiently for OHV use.

## **Procedures Required to Implement Alternatives Two and Three**

In general, implementation of Alternative Two would not require any special procedures, other than for BLM to develop a plan for minimizing threats to human health and safety. Under the no action alternative, BLM could undertake only minimal activities to protect human health and safety but could not approve more active management actions.

Under Alternative Three, BLM would undertake more aggressive management of the properties requiring additional site-specific planning and environmental assessments. Virtually the same studies and consultations as Alternative One would be required, including those required under the Endangered Species Act and National Historic Preservation Act. If Cana Island is retained, BLM would prepare a transportation plan to analyze options for transporting people and goods into and out of the area.

## **Implementation Plan**

Plan implementation will require completing many connected and sequential actions. This section describes these actions generally for all tracts and specifically for each parcel. There is no time-table for completing the actions. Due to budgetary constraints, it is necessary to place priorities on which properties should receive the earliest attention for processing. To this end, the priorities are as designated as **A, B, C**, with **A** designations receiving the top priority and **C** the lowest.

For some of the parcels, BLM may need to be conduct additional studies or undertake negotiations with affected parties to resolve issues identified during the implementation phase. It is BLM s intent, however, to divest itself of these properties as quickly as possible.

All actions will be preceded by publication of a classification order to be published in the Federal Register before BLM can make the land available for transfer. For the lighthouse properties, BLM will publish a public land order (PLO) in the Federal Register to restore the land to the operation of the public land laws. The PLO will enable another federal agency to take over jurisdiction of the land or allow BLM to transfer the land to a non-federal entity. All PLO s must be signed by the Assistant Secretary of the Interior.



	Additional Studies/Actions Prior to Final Decision
<b>Bayfield County</b>	
Perry Lake <b>Priority C</b>	<ol style="list-style-type: none"> <li>1. Request application(s)</li> <li>2. Sec. 106 (National Historic Preservation Act) Consultation</li> <li>3. Sec. 7 (Endangered Species Act) Consultation</li> <li>4. Environmental Assessment (EA)</li> <li>5. Appraisal (for public sale only)</li> <li>6. Complete realty actions</li> </ol>
Lake Osborn <b>Priority C</b>	<ol style="list-style-type: none"> <li>1. Request application(s)</li> <li>2. Sec. 106 Consultation</li> <li>3. Sec. 7 Consultation</li> <li>4. EA</li> <li>5. Appraisal (for public sale only)</li> <li>6. Complete realty actions</li> </ol>
<b>Door County</b>	
Cana Island <b>Priority A</b>	<ol style="list-style-type: none"> <li>1. Request application(s)</li> <li>2. Transportation/Access Plan</li> <li>3. Archaeological Survey</li> <li>4. Sec. 106 Consultation</li> <li>5. Sec. 7 Consultation</li> <li>6. Hazardous materials clearance</li> <li>7. EA</li> <li>8. Complete realty actions</li> </ol>
Eagle Bluff <b>Priority A</b>	<ol style="list-style-type: none"> <li>1. Request application(s)</li> <li>2. Archaeological Survey</li> <li>3. Sec. 106 Consultation</li> <li>4. Sec. 7 Consultation</li> <li>5. EA</li> <li>6. Complete realty actions</li> </ol>
Pilot Island <b>Priority B</b>	<ol style="list-style-type: none"> <li>1. Request application(s)</li> <li>2. Archaeological Survey</li> <li>3. Sec. 106 Consultation</li> <li>4. Sec. 7 Consultation</li> <li>5. EA</li> <li>6. Complete realty actions</li> </ol>
Plum Island <b>Priority A</b>	<ol style="list-style-type: none"> <li>1. Request application(s)</li> <li>2. Archaeological Survey</li> <li>3. Sec. 106 Consultation</li> <li>4. Sec. 7 Consultation</li> <li>5. EA</li> <li>6. Complete realty actions</li> </ol>

<b>Langlade County</b>  <b>Priority C</b>	1. Phase I Cultural Resources Assessment 2. Sec. 106 Consultation 3. Sec. 7 Consultation 4. EA 5. Appraisal (for public sale only) 6. Complete realty actions
<b>Oneida County</b> Lily Lake  <b>Priority C</b>	1. Sec. 106 Consultation 2. Phase I Cultural Resources Assessment 3. Sec. 7 Consultation 4. EA 5. Appraisal (for public sale only) 6. Complete realty actions
<b>Vilas County</b>	
Big Lake  <b>Priority C</b>	1. Phase I Cultural Resources Assessment 2. Sec. 106 Consultation 3. Sec. 7 Consultation 4. EA 5. Appraisal (for public sale only) 6. Complete realty actions
Pickerel Lake  <b>Priority C</b>	1. Phase I Cultural Resources Assessment 2. Sec. 106 Consultation 3. Sec. 7 Consultation 4. EA 5. Appraisal (for public sale only) 6. Complete realty actions
<b>Waupaca County</b>  <b>Priority C</b>	1. Phase I Cultural Resources Assessment 2. Sec. 7 Consultation 3. EA 4. Appraisal (for public sale only) 5. Complete realty actions

Table 3. Implementation plan actions.

**Notes:** As requested by the State Historic Society of Wisconsin (SHSW), Phase I cultural resource assessments and archaeological surveys are required by the National Historic Preservation Act (NHPA) on proposed transfers of land from Federal ownership. If it is determined that a particular tract is suitable for transfer through a withdrawal to another Federal agency this requirement will be waived. For tracts that may be transferred to State or local government agencies, BLM will conduct the surveys and use the information accordingly in its decisionmaking process regarding the disposition of the tract. Cultural resource surveys may also be conducted on tracts identified for sale, but the cost may need to be borne by applicants.

BLM will continue to engage the SHSW and Native American Tribes in discussions with respect to our responsibilities under the Native American Graves Protection and Repatriation

Act, the American Indian Religious Freedom Act, the Archaeological Resource Protection Act and the NHPA.

BLM will ensure that eligible or potentially eligible historic properties receive adequate protection under the NHPA. Any transfers of historic properties will carry with them certifiable guarantees that the properties are preserved in place. To avoid adverse effects to the properties, BLM will require potential recipients (and any third-party lessees) to file a preservation plan developed pursuant to the National Park Service's Historic Surplus Program. The preservation plan will have three components: (1) an Architectural Plan; (2) a Use Plan; and (3) a Financial Plan.

The SHSW has requested that BLM survey and evaluate under 36 CFR 800.4 Cana, Plum and Pilot Islands for possible inclusion into historic districts.

BLM will enter into Section 7 of the Endangered Species Act (ESA) consultations with the USFWS on tracts that may have suitable habitat for the occurrence of listed or potentially eligible threatened or endangered (T&E) plant and animal species. This consultation will occur *after* BLM receives applications for the properties as it would enable the government to determine what, if any, mitigation would be necessary to protect T&E species based on the proposed use. BLM will not sell or transfer properties before this consultation is completed.

All of the properties will, at a minimum, have site clearances conducted under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended. Some of the sites, notably Plum and Pilot Islands, have had environmental site assessments conducted already and are awaiting remediation from the toxic materials found on-site.

Cana Island has a minor contamination problem which may affect its groundwater supply. The Coast Guard has scheduled a clean up at the island to occur sometime during 2001.

BLM will prepare site-specific environmental assessments (EAs) prior to issuing decisions on the disposition of the properties. The proposed actions for these EAs will be linked to external proposals from other Federal agencies, State and local governmental agencies and individuals. BLM will accept applications from only those entities and individuals deemed appropriate in this plan (see Table 2).

Appraisals to determine fair market value will be conducted only after it has been determined that a particular parcel is approved for public sale. Thus, even if an appraisal is noted for a particular tract, that should not be construed as meaning the property will be sold, only that if it is decided that sale is appropriate an appraisal must first take place.

This list of administrative implementation actions is not exhaustive. The results of consultations and the studies and surveys noted may require additional work, such as archaeological digs or other information gathering.

## **Appendix 1 - Native American Consultation and Coordination**

The tribes contacted were all those which have tribal lands in the state of Wisconsin identified on the "Indian Tribes 1992" map published by the U.S. Geological Survey. One tribe from Michigan was contacted because its lands lie adjacent to Wisconsin. The State Historical Society of Wisconsin also provided a list of names of tribal historic preservation officers, repatriation representatives and tribal chairmen that should be contacted as required by the National Historic Preservation Act of 1966, as amended, and the National Environmental Policy Act of 1969.

In all, thirteen tribes received letters from BLM requesting information regarding their knowledge of cultural resources important to the tribes. These letters were followed-up by telephone calls to the addressees. Some of these contacts recommended other people who should receive the letters as well. BLM also sent these individuals copies of the letters.

All of the contacts requested that BLM continue to send information regarding the plan and disposition of the properties.

## **Appendix 2 - Legal Descriptions of Affected Properties**

The parcels included in the approved plan are legally described as follows:

### **Bayfield County**

*Perry Lake* (Town of Cable)

Township 43 North, Range 7 West, Section 17, Lot 11; 16.27 acres.

*Lake Osborn* (Town of Grandview)

Township 45 North, Range 6 West, Section 33, Lots 8-12; 62.3 acres.

### **Door County**

*Cana Island Lighthouse* (Town of Baileys Harbor)

Township 30 North, Range 28 East, Section 11, Tract 37; 9.06 acres.

*Eagle Bluff Lighthouse* (Town of Gibraltar)

Township 31 North, Range 27 East, Section 17, NW Fractional Corner; 1.0 acre.

*Pilot Island Lighthouse* (Town of Washington)

Township 32 North, Range 29 East, Section 1, NENW; 3.2 acres.

*Plum Island Lighthouse* (Town of Washington)

Township 33 North, Range 29 East, Section 26, Lots 1&2; Section 27, Lots 1, 2, and 3; 325 acres.

### **Langlade County**

*Lower Bass Lake* (Town of Upham)

Township 33 North, Range 10 East, Section 25, Lot 17; 1.18 acres.

### **Oneida County**

*Lily Lake* (Town of Crescent)

Township 36 North, Range 8 East, Section 22, Lot 12; 32.47 acres.

### **Vilas County**

*Big Lake* (Town of Presque Isle)

Township 43 North, Range 6 East, Section 33, Lots 7 and 8; 56.23 acres.

*Pickrel Lake* (Town of Cloverland)

Township 40 North, Range 9 East Section 4, Lots 8 and 9; 63.66 acres.

### **Waupaca County**

*Clintonville* (Town of Matteson)

Township 25 North, Range 15 East, Section 2 SW $\frac{1}{4}$ NE $\frac{1}{4}$ ; 40 acres.

**Total 610.37 acres.**

## **Appendix 3 - Disposal Criteria from 1985 Wisconsin RMP** (verbatim)

### **1. Disposal Criteria**

All BLM surface tracts are categorized for disposal and will be evaluated on a tract-by-tract basis against the following set of criteria:

- a. Where possible, the preferred method of disposal will be by transfer to another public agency or non-profit body. (The exception would be in cases where an applicant fails to acquire a parcel under the Color-of-Title Act and wishes to purchase the land under a FLPMA sale.)
- b. Where site-specific analysis reveals no interest by another public or non-profit body, BLM tracts may be offered through sale or exchange to a private body. Tracts will be retained under BLM administration only where management and no other public or non-profit body is available or willing to assume jurisdiction. Preference for sale or transfer may be readjusted based on policy changes, as well as on site-specific analysis. If additional BLM surface tracts are discovered in the future, they will also be evaluated and categorized for disposal, through the RMP amendment process.

### **2. Implementation Actions**

The following actions will be necessary to implement this alternative:

- a. Subsequent to plan approval, each tract (or related groups of tracts) will be evaluated for an on-site inspection and evaluation of renewable resource values and uses, resolution of occupancy or title conflict situations if any, and potential transfer or sale. Sale terms and deed restrictions, if necessary, will reference applicable local or State land use requirements.
- b. Any unauthorized use (occupancy), color-of-title or title conflict situation will have to be resolved prior to any other implementing action.
- c. A land report will be prepared for each tract to present findings and recommend a preferred transfer option. The various transfer options available include:
  - Recreation and Public Purposes Act lease or sale;
  - Withdrawal on behalf of another Federal agency;
  - Exchange between another Federal agency and a third party (private,

state or local government);  
Color-of-title claimants who satisfy the requirements of the color-of-title act; and  
Public sale (under Sec. 203, FLPMA).

- d. A site-specific environmental analysis will be prepared for each tract (or related groups of tracts) to evaluate the potential effects of the preferred transfer option and reasonable alternatives. Copies of the environmental analyses will be made available to interested parties on a request basis.
- e. Prior to any transfer, a Notice of Realty Action will be published in the Federal Register and general circulation newspapers to provide public notice and opportunity to comment on the action.

3. Retention Criteria

Areas where disposal of the surface would unnecessarily interfere with the logical development of the mineral estate, e.g., surface minerals, coal, phosphate, known geologic structures, etc.

Public lands withdrawn by BLM or another Federal agency for which the purpose of the withdrawal remains valid.



## Glossary/Abbreviations

ACEC	Area of critical environmental concern
AIRFA	American Indian Religious Freedom Act of 1978, as amended (42 U.S.C. 1996)
ARPA	Archaeological Resources Preservation Act of 1979 (16 U.S.C. 470)
BCPL	Board of Commissioners of Public Lands (State of Wisconsin)
BER	Bureau of Endangered Resources (Wisconsin DNR)
BIA	Bureau of Indian Affairs
BLM	Bureau of Land Management
CEQ	Council on Environmental Quality
CERCLA	Comprehensive Environmental Response Compensation, and Liability Act of 1980, as amended (42 U.S.C. 9615)
CFR	Code of Federal Regulations
COT	Color-of-Title (Act of December 22, 1928, as amended; 43 U.S.C. 1068)
CZMA	Coastal Zone Management Act of 1972 (16 U.S.C. 1451)
DNR	Department of Natural Resources (State of Wisconsin)
DR	Decision Record
EA	Environmental Assessment
ESA	Endangered Species Act of 1973 (16 U.S.C. 1531 seq.)
FLPMA	Federal Land Policy and Management Act of 1976, as amended (43 U.S.C. 1701)
FMV	Fair market value
FONSI	Finding of No Significant Impact
FR	Federal Register
NAGPRA	Native American Graves Protection and Repatriation Act (25 U.S.C. 3001)
NEPA	National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321)
NHPA	National Historic Preservation Act of 1966, as amended (16 U.S.C. 470)
NWR	National Wildlife Refuge
PSD	Prevention of Significant Deterioration
R+PP	Recreation and Public Purposes Act of 1926, as amended (43 U.S.C. 869)
RMP	Resource Management Plan
SHSW	State Historical Society of Wisconsin
USCG	United States Coast Guard
USDA	United States Department of Agriculture
USFWS	U.S. Fish and Wildlife Service

## Decision Record

Decision: It is my decision to select Alternative One from the Wisconsin Proposed Resource Management Plan Amendment as the preferred management alternative. The preferred alternative to transfer the properties identified in Appendix 2 of this Approved RMPA pending site-specific environmental reviews under the National Environmental Policy Act (NEPA).

Rationale: Two other alternatives were considered during the planning process: Alternative Two, or the no action alternative, and Alternative Three, in which BLM would retain and actively manage some or all of the properties. Although neither of these alternatives were not chosen as the preferred alternative, if no qualified entity applies for the properties, or if site-specific EA s reveal that impacts of transfer would undue or unnecessary degradation to the environment, BLM has the authority and discretion to retain any of the parcels. BLM does not anticipate implementing Alternative Two (no action) because it is believed that the impacts would be too great to the environment or to the historic and cultural resources found on them.

The decision to choose Alternative One will not result in undue or unnecessary degradation to the environment and is in conformance with all applicable laws, programs and policies.

### Recommended by:

\_\_\_\_\_  
James W. Dryden  
Field Manager, Milwaukee Field Office

\_\_\_\_\_  
Date

### Approved by:

\_\_\_\_\_  
Gayle F. Gordon  
State Director, Eastern States Office

\_\_\_\_\_  
Date

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